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SENSITIVE
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STATE PASS TO USAID FOR AID/ANE, AID/DCHA/DG
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SUBJECT: PARLIAMENT OVERRIDES KARZAI'S VETO AND ENACTS
MEDIA LAW

11. (U) Summary: The Wolesi Jirga (WJ, Lower House of the National Assembly) approved the media law with a two thirds majority, overcoming President Karzai's December 2007 veto. Journalists and NGOs reacted positively to the new law, with many speaking favorably of the provisions establishing Radio Television Afghanistan (RTA) as an independent organization under the executive branch of the government. Criticism of the law focused on the specific prohibitions on media publications that harm the moral well-being of people or that are offensive or libelous.
End Summary.

Basics of the New Law

12. (U) On September 6, the WJ passed the media law with the two-thirds majority needed to overcome Karzai's veto of the bill. Karzai's main objection was that he wanted RTA to remain under the control of the Ministry of Information and Culture. Under Article 14 of the new law, RTA is a public media that belongs to the Afghan nation and shall be administered within the framework of the executive branch.⁸ Article 44 of the law states that a National Radio Television Commission shall be established to regulate RTA and includes as one of the Commission's duties, protecting the independence, impartiality, and professional reputation of RTA.⁸ The seven members of the Commission must include one religious personality, one lawyer, one engineer, two journalists, one artist, and one representative from civil society. The Chair of the Commission is also the Executive Director of RTA. The law does not specify how the Chair is selected from the members of the Commission.

13. (U) Article 45 of the new law prohibits the production, import, reproduction, print, and publication of the following by mass media and news agencies:

Begin text:

Works and materials that are contrary to the principles of the holy religion of Islam,
Works and materials which are offensive to other religions and sects,
Works and materials which are humiliating and offensive to real or legal persons,
Works and materials which are considered libelous to real and

legal persons, and cause damage to their personality and credibility,
Works and materials which affect the stability, national security, and territorial integrity of the country,
False literary works,
Materials and reports that disrupt the public's mind,
Propagation of religions other than the holy religion of Islam,
Disclosure of identity and pictures of victims of violence and rape in a manner that damages their social prestige, and
Articles and topics that harm the physical, spiritual and moral well-being of people, especially children and adolescents.

End text.

Media Reaction

14. (SBU) Dr. Hashem Esmatullahi, President of the National Journalists Union of Afghanistan which represents 7000 journalists in 29 provinces, strongly supports the new law because it contains a number of reforms that will have a positive impact on Afghan media including allowing RTA to be independent of direct government control. On the negative side it is possible that the Ministry of Information and Culture will exert control over RTA by use of the libel and morals provisions of Article 45 or by not respecting the implementation of the new law.

15. (SBU) Massoud Farivar, General Manager of Salam Watandar

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Radio, characterized the law as a &step in the right direction8 and &generally sound.8 The law recognizes the importance of free media to a democratic society and takes away government control of RTA. Some of the provisions of Article 45, however, are extremely dangerous and could effectively erase freedoms promised in the rest of the law. Nader Naderi spokesperson for the Afghan Independent Human Rights Commission also expressed concern that the law did not contain a definition of what constitutes libel or materials that harm moral well-being, noting that even a song played on television could be found to be in violation of the morality clause of Article 45.

16. (SBU) Sharif Hassanyar, News Coordinator for Tolo TV, praised the section of the law that allows for independence for RTA. He noted, however, that last week the government fired the head of programming of RTA, Mir Ali Akbar, for producing programs alleging corruption by senior government officials. It is not clear that the government will respect the independence of RTA whatever the new law says. He also claimed that under Article 45, journalists and television stations will be prosecuted for saying anything critical of the government.

17. (U) Comment: Public reaction to the new law has been subdued. The silence likely represents fatigue from the 15 month process of enacting the law, general satisfaction on the part of media, and a wait and see attitude regarding the implementation of the new law. End Comment.
WOOD